

### Remarks

The applicant thanks the Office for allowing claim 40 of the application. The applicant submits amendments and arguments in response to the rejections posed by the Office with regards to claims 3, 5-15, 17-24, 26-39, and 41-51.

In paragraph 4 of the Official Action, the Office has rejected claims 3, 5-15, 17-24, 26-39, and 41-51 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,959,945 issued to *Kleiman* in view of U.S. Patent Number 4,829,569 issued to *Seth-Smith*. The applicant respectfully traverses this rejection.

In general, the present invention provides a system and method for downloading music content to customers in such a manner as to limit the promulgation of illegal copies of the music and to appropriately bill for downloaded music. More specifically, claim 3 recites a system that includes a recording device that allows for permanently recording one or more of the stored music selections and then utilizing a communications link to verify to a controller system that the stored music selections have been permanently recorded. Thus, the recited claim language includes a two phase process (1) downloading music selections and (2) permanently recording the music selections. As disclosed in the specification, the user can preview the music during the first phase to determine whether or not they desire to purchase the music. In phase 2, a CD quality version of the music can be made on a permanent copy which then invokes the purchase of the content. *Kleiman* describes a juke box scenario in which music can be down loaded into the juke box and be purchased. However, *Kleiman* does not describe the two phase operation of the present invention, nor would it have been obvious to include such a two phase system in *Kleiman* since there is no preview being performed of the content.

The recited operation highlighted for claim 3 is also recited in independent claims 15 and 24. Based on these novel elements of claims 3, 15 and 24, the applicant respectfully submits that these claims are allowable and requests the Office to retract the pending rejection of these claims. Furthermore, claims 4-14, 16-23 and 25-33 are dependent claims that respectfully depend from independent claims 3, 15 and 24 and thus, should also be allowable.

Claim 34 recites the element of an anti-piracy module that weaves an ID tag in the decoded music content. As described in the specification, this is an ID tag that follows the music content and is not separate from the music content. The purpose of this ID tag is to identify the source of any pirated versions of the music content. The Office cites *Seth-Smith* as rendering this aspect of the invention as obvious. However, the description provided in *Seth-Smith* does not even come close to describing such an element. *Seth-Smith* simply describes the use of a identification portion within an addressed packet that is transmitted in clear text. From a reading of *Seth-Smith*, this identification is simply used to identify the destination decoder associated with that identification and other decoders that are not identified will not be able to decode the message. There is no indication whatsoever that this identifier is "weaved" into the content, nor otherwise a part of the content. Thus, it would not have been obvious or even plausible to apply the teachings of *Seth-Smith* with *Kleiman* to obtain the claimed invention.

The recited operation highlighted for claim 34 is also recited in independent claims 46, 47 and 51. Based on these novel elements of claims 34, 46, 47 and 51, the applicant respectfully submits that these claims are allowable and requests the Office to retract the pending rejection of these claims. Furthermore, claims 35-45 are dependent claims that depend from independent claim 34 and claims 48-50 are dependent claims that depend from claim 47 and thus, should also be allowable.

Thus, the applicant submits that the rejections set forth in paragraph 4 of the Official Action have been fully replied to and that the claims are allowable in the present form. The applicant respectfully requests the Office to move these claims towards allowance.

**Extension of Time**

Pursuant to 37 C.F.R. § 1.136, Applicant hereby petitions for an extension of time of (3) three months, extending the time for responding to Official Action to Oct. 9, 2003.

The statutory fee for small entities of \$475.00 is included in the attached credit card authorization form.

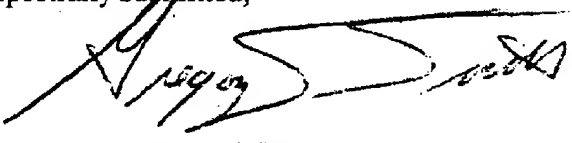
**Appointment of Power of Attorney**

A copy of a Power of Attorney is attached. Enclosed with this response is also request to for address change for all future correspondence. The revocation and appointment of power of attorney is signed by David E. Homrich, the Vice President, Treasurer and Secretary of Exodus Capital, LLC. Attached to the revocation and appointment of power of attorney is a court order granting Exodus Capital, LLC the power to exercise any and all of its rights and remedies as collateral agent with respect to handling the intellectual property of World Theatre, Inc., the present assignee of this application. Applicant respectfully request the Office to accept this appointment of power of attorney.

**Conclusion**

Applicant respectfully submits that claims 1-10 are in condition for allowance. If the Office has any questions regarding these claims or this response, the Office can call the applicant's attorney, Gregory Smith at (770) 804-9070.

Respectfully submitted,

  
By: \_\_\_\_\_

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